

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

FRIDAY, THE 19TH OCTOBER 2007 / 27TH ASWINA 1929

Crl.L.P.No. 716 of 2007()

ST.374/2006 of JUDICIAL FIRST CLASS MAGISTRATE COURT-VI,
THIRUVANANTHAPURAM
.....

PETITIONER/COMPLAINANT:

VARGHESE MATHAI,
MONILAND, NEELESWARAM P.O., KOTTARAKKARA.

BY ADV. SRI.G.SUDHEER

RESPONDENTS: ACCUSED & STATE

1. A.M.KASIM,
MOONSTAR COMPLEX, MEDICAL COLLEGE P.O.,
THIRUVANANTHAPURAM.
2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.R.T.PRADEEP-R1
SRI.VIJULAL V.
PUBLIC PROSECUTOR SRI THOMAS JOHN AMBOOKKAN -R2

THIS CRIMINAL LEAVE PETITION HAVING COME UP FOR ADMISSION
ON 19/10/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

K.THANKAPPAN, J.

CRL. L.P. NO. 716 OF 2007

Dated this the 19th day of October, 2007

O R D E R

This is a petition for special leave to appeal against the judgment in S.T. Case No. 374 of 2006 on the file of the Judicial First Class Magistrate's Court VI, Thiruvananthapuram.

2. The case of the petitioner - complainant was that the first respondent - accused had borrowed from him an amount of Rs.1,50,000/- and issued Ext.P1 cheque dated 10.4.2004 towards discharge of the above liability which when presented to the bank for encashment was dishonoured due to insufficiency of funds in the account of the accused. When the amount covered by the cheque was not repaid inspite of issuance of notice, the complaint was filed. After considering the entire evidence, the trial court found that the petitioner - complainant failed to prove that the cheque in question was presented for encashment within the time stipulated for presentation of a negotiable instrument. The cheque having become out dated, the trial court, acquitted the accused. It is trite law that

if a cheque is not presented for encashment within six months, such cheque will not create any liability on the drawer unless it is revalidated. In the above circumstances, this Court is of the view that the finding entered by the trial court is justifiable and it requires no interference.

The Crl. Leave Petition is accordingly dismissed.

(K.THANKAPPAN, JUDGE)

sp/

K. THANKAPPAN, J.

CRL.A. NO.

JUDGMENT

OCTOBER, 2007